

TAXPAYER BONDS

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In case of inconsistency, error, or omission in this publication, the language of the Arizona Revised Statutes and the Arizona Administrative Code will prevail.

Who May Have to Post a Taxpayer Bond?

Note: The bonds referred to in this publication should not be confused with a Performance Bond.

- Certain Transaction Privilege Tax license applicants who will engage in contracting.
- Certain prime contractors who have construction contracts valued at \$50,000 or more.
- Persons who are delinquent in paying Arizona taxes or have a history of delinquency.

Taxpayer Bond Requirements for Contractors Applying for New Licenses

Which new applicants must post a bond?

Contractors that must be licensed with the Registrar of Contractors or licensed as dealers of manufactured housing (mobile homes) must post a bond with the Department of Revenue before a Transaction Privilege Tax license will be issued unless the contractor qualifies for an exemption from the bonding requirement.

How does a new applicant request an exemption from the bonding requirement?

A new applicant in the construction business may apply for an exemption from the bonding requirement. To apply for an exemption, a new applicant must complete and submit the Department of Revenue's *Transaction Privilege Tax License Application for Bond Exemption*. The contractor must include documentation with the exemption request that shows that the contractor is entitled to an exemption. Documentation may be any of the following:

- If the taxpayer has been in business for at least 2 years immediately preceding the request, the contractor should submit statements from an authorized state employee from each state in which the business has been licensed in the last two years. These statements must verify that the taxpayer has, for at least 2 years immediately preceding the date of the statement, made timely payment of all sales taxes and other transaction privilege taxes incurred. If any of the statements show any late or insufficient payments, the contractor must also include an explanation of good cause for any late or insufficient payment.
- Documentation that verifies that no potential for Arizona tax liability exists.
- A bond for a previously issued Arizona transaction privilege tax license that covers the liability for the previous license and the new license.

Note: If your exemption request is denied you have the right to an appeal. All appeals must be made in writing.

What amount of bond must a new applicant post?

The primary type of contracting being performed determines what amount of bond to post. An applicant who does not qualify for an exemption from the bonding requirement must post a bond for the amount indicated below:

Required Bond Amount	Type of Contracting Being Performed
\$ 2,000	General contractors of residential buildings, other than single family housing; operative builders; plumbing, air conditioning, and heating; painting, paper hanging, decorating; electrical work, masonry stonework and other stonework; plastering, drywall, acoustical and insulation work, terrazzo, tile, marble and mosaic work; carpentry; floor laying and other floor work; roofing and sheet metal work; concrete work, water well drilling, structural steel erection; glass and glazing work; excavating and foundation work; wrecking and demolition work; installation and erection of building equipment; special trade contractors; and manufactures of mobile homes.
\$ 7,000	General contractors of single family housing, water, sewer, pipeline, communication and power-line construction.
\$ 17,000	General contractors of industrial building and warehouses; of non-residential buildings; and highways and street construction except elevated highways.
\$ 22,000	Heavy construction not elsewhere classified (e.g. dams, golf courses, land drainage, etc.).
\$102,000	Bridge, tunnel and elevated highway construction.

How long must a new applicant maintain a bond?

An applicant in the contracting business must maintain a bond for a minimum of 2 years. The department will not require the applicant to obtain a new bond if the taxpayer timely pays all taxes due for that 2 year period. If the taxpayer has deposited cash, a certificate of deposit, or a U.S. Treasury bond with the department, the taxpayer must submit a request for refund of the bond in writing. The taxpayer may use Arizona Department of Revenue *Bond Release Request for Contractors*.

Taxpayer Bond Requirements for Prime Contractors Who Have Construction Contracts Valued at \$50,000 or More

Which prime contractors must post a bond?

An out-of-state contractor, or an in state contractor that has been in business for less than 12 months, must post a bond if the contractor enters into a prime construction contract valued at \$50,000 or more to be performed in Arizona. The contractor must post a bond unless the contractor qualifies for an exemption from the bonding requirement.

When a contractor posts the bond, the contractor must submit a copy of the contract with the bond. The department will provide the contractor with a receipt that shows that the bond requirement has been met, or the department may issue an exemption for a specified contract.

When applying for a building permit for construction projects over \$50,000, contractors must provide local building authorities with a Department of Revenue issued certificate to verify that the bond requirement has been met, or the department will issue a one-time exemption to the building authority indicating that there was no bond required.

Can a contractor receive an exemption from the bonding requirement?

The department provides exemption certificates to all qualified contractors on an annual basis. To qualify for an annual exemption

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certificate, the taxpayer must pay and submit returns on time for a period of two years. Contractors who were not issued an annual exemption certificate but think they should have received one are advised to contact the License and Registration Section. The department may also issue a one-time exemption certificate for individual projects

What amount of bond must a contractor post?

A contractor required to post a bond for a contract of over \$50,000 must calculate the amount of the bond. The taxpayer should compute the amount of bond using the following worksheet.

Gross value of the contract	_____
Enter the value of land included in the contract	_____
Subtract line 2 from line 1	_____
Multiply line 3 by 35 percent (.35)	_____
Subtract line 4 from line 3	_____
Multiply line 5 by the tax rate	_____

If the value of the contract increases or decreases 10 percent or more after the bond is submitted, the contractor must notify the Department of Revenue within 14 days and make an appropriate adjustment in the bond.

Must a contractor post a bond for a contract of over \$50,000 when the contractor has posted a bond as a new license applicant?

An out-of-state contractor that has a current bond on file as a new applicant may also have to post a bond for a contract of over \$50,000. The department will credit any bond submitted when the license was originally issued against the requirement for a bond for a contract of over \$50,000.

How long must a contractor maintain a bond for a contract of over \$50,000?

Bonds submitted by contractors for contracts over \$50,000 must be maintained until the taxes have been paid for that particular project. If the taxpayer has deposited cash, a certificate of deposit, or a U.S. Treasury bond with the department, the taxpayer must submit a request for refund of the bond in writing. The taxpayer may use Arizona Department of Revenue's *Bond Release Request for Contractors*.

Bond Requirements for Delinquent Taxpayers

Which delinquent taxpayers must post a bond?

The department may require a taxpayer that is delinquent in payment of Arizona tax to post a bond. The department may also require a taxpayer that has had a history of delinquency for a previous business license to post a bond for payment of tax (transaction privilege, withholding, or corporate). If the taxpayer is filing on a quarterly basis or less frequent basis, the department will consider the taxpayer to be delinquent if the taxpayer has had 2 or more delinquencies in remitting tax during the preceding 24 months. If the taxpayer is filing on a monthly basis or more frequent basis, the department will consider the taxpayer to be delinquent if the taxpayer has had 4 or more delinquencies during the preceding 24 months. The department may also require a taxpayer to post a bond under any of the following circumstances.

- The department investigates the financial status of a new license applicant and determines that the applicant would not be able to timely remit amounts due.
- A new license applicant held a license for a prior business and had a delinquent remittance record for that prior business.
- The department experienced collection problems while a new

license applicant was engaged in business under a prior license.

- A new license applicant had a previous license revoked.
- A new license applicant is substantially similar to a person who would have been required to post a bond because of delinquencies. An applicant is substantially similar if it is owned or controlled by persons who owned or controlled a previous licensee.

How will a delinquent taxpayer know if a bond is required?

The department will notify a delinquent taxpayer if a bond is required. If a taxpayer receives a notice from the department, the taxpayer has 5 days to either post the bond, or to send in a written request for a hearing.

What amount of bond must a delinquent taxpayer post?

The amount of bond or security required is the greater of \$500 or, for:

- A monthly filer, 4 times the average monthly tax liability.
- A quarterly filer, 6 times the average monthly tax liability.
- An annual filer, 14 times the average monthly tax liability.

The average monthly tax liability is based on the licensee's average monthly tax due for the preceding six months. If a taxpayer does not have a 6 month payment history, the bond amount will be a minimum of \$500.

How long must a delinquent taxpayer maintain a bond?

If the taxpayer maintains a good filing and payment record for a period of 2 years, the taxpayer may request that the department waive the continued bond requirement. The taxpayer must submit a request for release in writing. The taxpayer may use Arizona Department of Revenue's *Bond Release Request for Contractors*.

For Taxpayer Bond Information, call:

Phoenix (602) 542-4576
Toll free from area codes 520 & 928 (800) 634-6494

For Transaction Privilege Tax Information, call:

Phoenix (602) 255-2060
Toll free from area codes 520 & 928 (800) 843-7196

For Hearing Impaired - TDD only:

Phoenix (602) 542-4021
Toll free from area codes 520 & 928 (800) 397-0256

Or Write to:

Arizona Department of Revenue
Taxpayer Information & Assistance
1600 W Monroe
Phoenix AZ 85007

For Related Tax Information:

Internet Address www.revenue.state.az.us
Recorded Tax Information (602) 542-1991
Toll free from area codes 520 & 928 (800) 845-8192
Forms by Mail (602) 542-4260
Forms by Fax (602) 542-3756

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